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***Persuasion Strategies for Litigators and Negotiators:
What's the Difference?***

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***Persuasion Strategies for Litigators and Negotiators: What's the
Difference?***

by

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Abstract

Persuasion Strategies for the Litigators and Negotiators: What's the Difference?

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Persuasion scholars have documented the use of compliance-gaining messages in both negotiation and negotiation. The extant research offers suggestions for litigators and negotiators, but fails to compare the methods of persuasion in the two circumstances in order to advise attorneys and clients which communication messages to employ in the different contexts. The present study explores differences in use of 7 common compliance-gaining message strategies ("It's Up To You", "This Is The Way Things Are", "Equity", "Benefit (Other)", "Bargaining", and "Cooperation"; Kellerman, 2004) in separate negotiation and litigation cases. Findings indicate that "This Is The Way Things Are" messages were more frequent in litigation than negotiation, but "Cooperation" messages were more common in negotiation than litigation. No other significant differences in strategy frequency across the different contexts were found. These results indicate that some differences exist between the messages used in negotiation and litigation and that future research should investigate what other messages may be used differently in the two contexts.

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Chapter 1: Literature Review

Modern compliance gaining research traces its origins to *Compliance-Gaining Behavior: A Synthesis and Model* by Gerald Marwell and David Schmitt (1967). For most people, convincing others to behave in a desired fashion is a major part of life. When people vary the behavior they utilize to convince others, they enact a compliance-gaining strategy. Marwell and Schmitt (1967) published their typology of compliance-gaining strategies, and communication scholarship has given the subject a great deal of attention ever since (Boster, Levine, & Kazoleas, 1993).

Yet despite this broad initial interest, research into the compliance-gaining strategies has declined in recent years, and few substantive conclusions can be drawn from the research that does exist (Levine & Boster, 2010). Moreover, scholarship surrounding compliance-gaining message production, similar to that of social influence, is disparate and disordered. Studies span across a variety of methodologies and disciplines (e.g., communication, management, psychology, social interpersonal, small group, organizational, and mass communications) (Garko, 1990).

On the whole, however, models of compliance-gaining consider persuasion a part of a reciprocal process during which actors define meanings of language and behavior based on previous experience with the subject and the context of the immediate message (David & Baker, 1994). Interest in the wide variety of these messages led researchers to develop categorization schemes, or typologies, of compliance-gaining strategies (Levine & Boster, 2010). Much early communication research focused on the creation of taxonomies designed to identify these strategies (David & Baker, 1994).

Typologies of Compliance-gaining Strategies

Compliance-gaining typologies are the focus of great debate among communication scholars. Although Marwell and Schmitt's typology is the most frequently cited (David & Baker, 1994), their work has also received ample criticism and modification in the 45 years since publication. Revised typologies all seek to categorize compliance gaining-strategies by message content (Levine & Boster, 2010), but are not easily combined, classified, or compared with one another (David & Baker, 1994).

One major schism in compliance-gaining research is whether deductive or inductive approaches to designing typologies are more appropriate. Deductive and inductive approaches differ in the origin of the typology -- deductive approaches derive from a prior theoretical paradigm, whereas inductive approaches derive from responses of participants in a particular study (Parrish-Sprowl, Carveth, & Senk, 1994). In practice, a deductively derived typology will create categories of compliance-gaining strategies by reducing them from existing social influence literature; by contrast, inductively derived typologies focus on identifying patterns and generalizations found in responses to persuasive scenarios (Wiseman & Schenck-Hamlin, 1981). The central question is whether a team of social scientists or research participants should offer the categories of analysis (Boster, Stiff, & Reynolds 1985).

Deductive typologies. Using a deductive approach, Marwell and Schmitt (1967) undertook research to explore the scope of compliance-gaining actions in which humans engage. They defined compliance-gaining techniques as “specific behavior sequences by which the actor tries to elicit desired responses from the target person” and argued that

any category system of compliance-gaining behaviors should be empirically-based (Marwell & Schmitt, 1967, p. 321). To that end, they sought to systematically reduce the array of compliance-gaining behaviors into understandable strategies (Marwell & Schmitt, 1967). This approach resulted in one of the first, and arguably the most influential, deductively-derived classifications of compliance-gaining strategies (Wiseman & Schenck-Hamlin, 1981). This deductive model is based on the assumption that actors behave strategically to maximize targeted compliance at the least possible cost (Marwell & Schmitt, 1967). Marwell and Schmitt used contemporary research on social power to create five factors for the analysis of compliance-gaining behaviors, including: rewarding activity, punishing activity, expertise, activation of interpersonal commitments, and activation of personal commitments.

In most non-experimental situations, the possible number of enacted behaviors is enormous, so Marwell and Schmitt (1967) issued a questionnaire to elicit respondents' likelihood of performing various types of techniques in different situations. Participants were asked to report how they would seek compliance in four different scenarios. The scenarios included: (1) a salesperson asking for a promotion, (2) a parent asking his or her child to study more hours per week, (3) a salesperson selling encyclopedias, and (4) a student asking his or her roommate for tutoring. Those responses were reduced to clusters, termed strategies. They found 16 compliance-gaining strategies through reports from undergraduate students.

The sixteen strategies found by Marwell and Schmitt (1967) include: promise (reward for compliance from source), threat (punishment for noncompliance from

source), expertise positive (reward for compliance “because of the nature of things”), expertise negative (punishment for noncompliance “because of the nature of things”), liking (acting friendly to put the target in a “good frame of mind), pre-giving (reward offered before request for compliance), aversive stimulation (punishment sustained until compliance), debt (pointing out that compliance is owed), moral appeal (noncompliance would be immoral), self-feeling positive (compliance will lead to feeling better about self), self-feeling negative (noncompliance will lead to feeling worse about self), altercasting positive (others possessing with “good” qualities would comply), altercasting negative (others possessing with “bad” qualities would not comply), altruism (fulfill speaker’s personal need for compliance), esteem positive (compliance will lead others valued by the target “thinking better” of the target), and esteem negative (noncompliance will lead others valued by the target “thinking worse” of the target). A table of these strategies including definitions and examples is available in Appendix A.

Marwell and Schmitt created a foundation for further study, but their own work bears certain qualifications. Notably, the scenarios tested are limited in scope. Marwell and Schmitt acknowledge this limitation, and later research in the field broadened the scope of scenarios tested. Further, the study created a starting point for further examination of compliance-gaining by explaining how exchanges for power relate to compliance. This explanation created a useful link between research on dimensions and sources of power and compliance-seeking. Ultimately, Marwell and Schmitt created a valuable schema from which other research representing a wider array of scenarios and populations have been tested.

Finding the set of strategies identified by Marwell and Schmitt cumbersome, Miller, Boster, Roloff, and Seibold (1977) revised the typology to create a smaller and more abstract list of persuasion strategies. Miller, et al. took issue with the representativeness of the population sample, the efficacy of the experiment methodology, and the reliability of the statistical method used to calculate results. In an attempt to correct the limited sample of undergraduate students, they expanded the typical undergraduate student sample by including 75 students from communication classes in a large Midwestern university, 76 students from speech and theatre classes at a two-year community college, and 17 career Army recruiters.

To address the unsatisfactory variance of hypothetical situations offered to respondents they created two additional hypothetical situations. Miller, et al. (1977) derived the same sixteen strategies, but also produced three important contextual findings about compliance-gaining: strategies are highly situationally-bound based on the whether the goals that were explored were short-term or long-term; variable selection is highly dependent on the context in which the strategies are employed; and liking and altruist strategies have similar likelihoods of use regardless of situation type. The Miller et al. (1977) typology, like Marwell & Schmitt, and other following typologies, was limited in that it failed to authenticate a complete picture of the available compliance-gaining messages.

Later, Hunter and Boster (1987) expanded upon the deductively-derived typology and sought to create an understanding of the causes of compliance-gaining strategy selection (Levine & Boster, 2010). Hunter and Boster (1987) predicted that individual

differences in compliance-gaining strategies are based on a speaker's conditioning for endurance of negative emotional responses from a listener. They advanced a notion that the speaker's anticipation of the target's emotional reaction to the message likely informs the speaker's message selection (Hunter & Boster, 1987). Following Hunter and Boster's theory, salespeople would tailor their messages to potential buyers based on what they predict the buyers' emotional response will be; they will further alter messages based on their own analysis of the emotional reaction of the buyers they deems likely to occur. Because of this factor, sources generally prefer using positive messages to elicit positive responses from targets (Boster et al., 1985; Hunter & Boster, 1987). Their research suggests that the typology created by Marwell and Schmitt is really a measure of the speaker's sensitivity to the target's response (Boster et al., 1985).

The deductively derived typologies sort respondent data into strategies defined within literature. The research suggests a full picture of the universe of compliance-gaining in which messages are selected based on speaker's communication goals and personal characteristics. This picture of compliance-gaining is challenged and reexamined by scholarship advancing inductively derived typologies.

Inductive typologies. Deductive typologies provided an initial framework for understanding the complexity of compliance-gaining message production. However, these typologies have been criticized by communication studies scholars for their reliance on self-reports of strategies participants say that they are likely to use (Wiseman & Schenck-Hamlin, 1981). Critics argue that this method of data collection creates a social-desirability bias and because participants were restricted to approaches formulated by the

experimenter, deductive-based research does not capture the full realm of compliance-gaining strategies (Wiseman & Schenck-Hamlin, 1981). These problems prompted Wiseman and Schneck-Hamlin (1981) to argue for an inductively-derived typology, believing this approach begins with more valid and reliable operationalizations of compliance-gaining strategies.

Wiseman and Schenck-Hamlin (1981) conceptualized compliance-gaining activity as complex and dynamic, necessarily based on understanding of both the intentions of the actor and certain conditions for influence (Schenck-Hamlin, Georgacarakos, & Wiseman, 1982). Ultimately, they sought to demonstrate that sets of properties comprise the basic building blocks of each compliance-gaining message (Schenck-Hamlin, et al., 1982). They attempted to account for the underlying properties of compliance-gaining strategies by representing those strategies in symbolic logic (Schenck-Hamlin, et al., 1982).

They gathered subjects' messages in three-steps: participants rated ten persuasive situations in which a person made a request of his or her roommate in order of believability, importance, reasonableness of request, and degree of violation of social norms. Participants then issued a persuasive message for three of the ten situations of their choice. Finally, they wrote an essay on "how I get others to do what I want them to do." Wiseman and Schenck-Hamlin derived a taxonomy from those messages (Schenck-Hamlin, et al., 1982).

Wiseman and Schenck-Hamlin effectively organized compliance-gaining strategies into three categories: sanction strategies, normative strategies, and explanation

strategies. Sanction strategies include: ingratiation (rewards for compliance precede request for compliance), promise (rewards promised in exchange for compliance), debt (recall of obligation to induce compliance), esteem (compliance will result in automatic increase in self-worth), allurement (reward for compliance from someone other than target or speaker), aversive stimulation (cessation of punishment is contingent on compliance), threat (negative consequences for noncompliance), guilt (noncompliance will result in automatic decrease of self-worth), and warning (punishment from person other than source or target will result from noncompliance). Altruism (compliance will benefit the speaker and not the target) was the only normative strategy found.

Explanation strategies include: direct request (request for compliance with no motivation or inducement), explanation (reasons advanced for compliance), and hinting (situation presented so that target concludes compliance) (Schenck-Hamlin, et al., 1982). These strategies, including examples, and explanations, are available in Appendix B.

Content, unitizing, and coding reliability of the taxonomy was established by asking coders to categorize each message to the strategies found in the taxonomy. The representative reliability was further examined through the comparison of a multidimensional scaling analysis of the participants' perceptions of the strategies in order to understand the reduction of the interaction caused by the participant's interpretation of the strategies with the construction of a symbolic logic to determine the reduction caused by the coding scheme (Schenck-Hamlin, et al., 1982).

Wiseman and Schenck-Hamlin's criticism of Marwell and Schmitt, and subsequent deductive research, is based on how the original list was constructed.

However, Boster, et al. (1985) took issue with this criticism of the deductive approach, arguing that differences between the typologies are actually differences between who constructs the lists; the real question is whether or not student participants can produce a better list than social scientists (Boster, et al., 1985). In fact, Boster et al. (1985) found more similarities than differences between the Wiseman/ Schenck-Hamlin list and the Marwell/ Schmitt list.

One notable difference, however, is that Wiseman and Schenck-Hamlin criticized Marwell and Schmitt's work because participants reported greater incidence of positive than negative strategies. Wiseman and Schenck-Hamlin posit that this incidence is the result of a social desirability bias, but Boster et al. (1985) sought to test that theory. They conducted an experiment to test how participants responded to both constructions of the lists; participants were asked to rate their likelihood of using thirty compliance-gaining messages (a combination of the fourteen-item Wiseman/ Schenck-Hamlin list and sixteen-item Marwell/ Schmitt list) in two compliance-gaining situations. They found no evidence of a social desirability bias affecting participants' use ratings of either construction, concluded that the two lists were complementary, and recommended that future research combine them (Boster et al., 1985).

Modern typologies. Since eight of the fourteen Wiseman and Schenck-Hamlin strategies differed from Marwell and Schmitt strategies, combining the two lists yielded a 24-item list. As a result, this larger list purported to increase the reliability of use responses to these messages by broadening the scope of responses (Boster et al., 1985). However, Kellerman and Cole (1994) argued against "mini-merger" lists such as those

advocated by Boster et al. (1985). They warned that merging the lists does not create a typology—it merely identifies the strategies that exist in the literature, but does not account for strategies not yet identified in literature, and therefore, may be incomplete (Kellerman & Cole, 1994). Previous work did not create a unified taxonomy because it failed to accommodate various classification schemes from an array of domains of scholarship and labeling structures (Kellerman & Cole, 1994). Therefore, Kellerman and Cole (1994) employed a cross-taxonomy integration strategy, incorporating popular communication taxonomies along with lesser-known counterparts from linguistic (i.e., hedging/ disclaimers), clinical psychology, child psychology, social psychology, education, marketing, consumer research, and sexual behavior literature to identify the realm of strategies that exist in current literature.

Their research focused on identifying similar strategies across typologies to create a framework of the strategies that were identified (Kellerman & Cole, 1994). Therefore, Kellerman and Cole (1994) integrated 74 different taxonomies with over 820 strategies and 1,268 examples to determine which were similar and dissimilar. All of the strategies were stripped of labels to their constitutive definitions, which were then analyzed. To avoid difficulty in the convergence of the strategies caused by variation among otherwise similar strategies, overly broad strategies were split, overly narrow strategies were combined, strategy definitions were analyzed apart from the examples with which they were offered, and the examples of strategies used to infer definitions of the strategies. They formed an exhaustive list of 64 strategies from existing research (see Appendix C).

They found that despite overlap in enumerated strategies, two to ten percent of tactics were routinely left unclassified in nearly all of the taxonomies they reviewed (1994). Notably, their work is plagued by the same lack of definite exhaustiveness as all other existing taxonomies. That is, their listing only includes known strategies, not those unknown or unidentified by previous work.

Previous compliance-gaining research dating back to 1967 created taxonomies to classify compliance-gaining messages. More recent research culled the extant research to create useful lists to classify compliance-gaining messages. This study will use existing constructions of compliance-gaining strategies to examine the types of compliance-gaining messages found in conflict resolution processes.

This study seeks to examine compliance-gaining strategies in litigation and negotiation. Litigation and negotiation are both methods of resolving disputes between parties. Litigation is an adversarial process governed by legal procedure and administered by a judge. Negotiation, by contrast, is a co-dependent decision-making process in which the power lies with the parties. Compliance-gaining plays a critical role in both processes. Successful navigation of either litigation or negotiation is dependent upon successfully gaining the compliance of some decision-maker. Therefore, an understanding of the role of compliance-gaining in these contexts is essential to successful representation of disputant parties.

To achieve that understanding, a cross-taxonomy list of strategies identifies all of the compliance-gaining messages that might be used in these contexts. The Kellerman and Cole list provides the most comprehensive assessment of strategies available to

researchers. Although the Kellerman and Cole list is not a taxonomy, per se, it provides an instructive list of the types of compliance-gaining messages that could be identified through research. Therefore, the current study will use the Kellerman and Cole (1994) list of 64 strategies to learn, compare, and contrast compliance-gaining strategies in negotiation and litigation.

Persuasive Messaging

In order to understand the value of the examining of the taxonomies of compliance-gaining messages is important to view the role that persuasive messages play in the broader compliance-gaining process. To wit, compliance-gaining messages are processed by a receiver from whom compliance is sought. That receiver must then process these messages and respond.

The elaboration likelihood model (ELM) is a model of the procedure by which a receiver processes compliance-gaining messages (Petty & Cacioppo, 1986). The ELM advances the notion that persuasion is dependent on the likelihood that a receiver will engage in elaboration, or thinking, about messages received. Based on the degree of elaboration, messages will fall into one of two processes: the central route, which involves systematic or critical thinking, or the peripheral route, which involves cognitive shortcuts. When elaboration is high, the central route is engaged. It is typically associated with issue-related thoughtful consideration of information and arguments. By contrast, the peripheral route is concerned when elaboration is low. Messages processed through the peripheral route are subject to outlying cues, heuristic principles, and perceptions of credibility rather than issue-related thinking.

The choice of route (or amount of elaboration) is influenced by the motivation or the ability of the receiver to elaborate. Motivation for elaboration includes the personal relevance or involvement a receiver has in the topic and the receiver's need for cognition, or general tendency to enjoy thinking. A receiver's ability to elaborate includes the presence of distractions to the elaboration or retention of the knowledge base needed to elaborate by the receiver. (Petty & Cacioppo, 1986) Ultimately, messages can influence compliance in one of three ways: (1) serve as persuasive arguments for analysis in the central route, (2) serve as peripheral cues for judgment in the peripheral route, or (3) affect the extent and direction of issue or argument elaboration.

Messaging Strategies in Litigation and Negotiation

When parties disagree and believe the dispute involves disparate legal rights, they may choose to pursue litigation. Litigation refers to any action contested in court; it necessarily includes three elements: a claim ("active attempt to attain some valued end"), a dispute ("resistance to the claim"), and use of the court to resolve the dispute (Friedman, 1989, p. 18). Litigation may include trials and hearings to enforce rights of one party against another. Importantly, in litigation, a judge or jury determines the fate of the dispute based on facts and evidence provided and arguments presented by advocates (Isaac, 2011). Due to concern over the unpredictability and inefficiencies of the litigation process, parties may choose alternative forms of dispute settlement.

Negotiation is central to alternative dispute resolution processes. Negotiation is the interactive process by which a person attempts to persuade or influence others to change their beliefs, emotions, and behaviors (Wade, 2008). There are two forms of

alternative dispute resolution: those in which the parties make decisions and others in which decision-making power is assigned to a third-party. Mediation and facilitated negotiation, a type of negotiation involving the use of a neutral third-party to help promote fall into the former category (Berman, 1995).

Facilitated negotiation is a dispute resolution process in which parties make their own decisions with each other, but have the aid of a neutral party (Berman, 1995). The neutral party is present in order to move discussions forward and ensure that all parties have a mutual understanding of the positions, strategies, and agreements within the negotiation. Their role is fairly similar to that of a mediator (Berman, 1995). As a form of facilitated negotiation (Riskin, 1997), mediation is a “confidential, structured process in which a neutral third party, the mediator, facilitates communication between the parties of a dispute to promote reconciliation, settlement or understanding among them” (Mediators, 2011). During mediation, parties resolve their dispute through negotiation (Isaac, 2011).

These processes differ from litigation because they possess elements of interdependence and self-determination. Because of these distinctions, alternative dispute resolution is often chosen over litigation because it gives the parties, not the judge or jury, control over the final outcome (Isaac, 2011). While there is a great deal of research creating models and listing consideration of whether parties should proceed with trial or negotiate, no research compares persuasive communicative patterns in the two arenas. This study will analyze the persuasive messages in each field to determine which compliance-gaining messages are more pervasive in negotiation compared with litigation.

In addition to compliance-gaining messages, other communication-based differences between litigation and negotiation processes have been established by previous literature and are now used to shape additional lines of inquiry for the present study.

Litigation strategies. Friedman (1989) argues that in theory, trials are inefficient. Litigation may be a socially disruptive process and involve transactional costs that could be spared if parties rationally agree on a range of values that would resolve the dispute. Therefore, trials in theory should only result when disputants are unable to settle their claim because one or both parties misjudge the likelihood of a beneficial or detrimental outcome of the trial or seek to establish some principle or precedent (Friedman, 1989). Within the scope of persuasive litigation strategies, two techniques—mitigate reactance techniques and outcome focus techniques—and four corresponding hypotheses are examined in this study.

Mitigate reactance techniques. Compliance-gaining messages containing a source's effort to limit the effects of a target's reaction to compliance are considered "mitigate reactance" techniques. Reactance, in this context, refers to a target's motivation to reestablish a freedom threatened by a source's attempt to gain compliance. During a compliance-gaining episode, a target might perceive a threat to his or her freedom by a source's attempt to gain compliance. In order to reassert that freedom, the target may react by maintaining his or her state of non-compliance, or changing his or her opinion to oppose the interests of the source (Brehm & Brehm, 1981). High reactance by a target would limit the success of a compliance-gaining attempt from a source. Therefore, advocates seek to limit the severity of reactance when seeking compliance.

Litigation features a single neutral party that makes decisions that bind the parties in controversy. The power dynamics, and therefore the need to manage reactance, in hearings and trials differ from those found in mediations, negotiations, or everyday conversations. For example, Scarduzio (2011) studied communication patterns by municipal court judges and observed twelve municipal court judges during arraignments, pre-trial conferences, and trials. Scarduzio (2011) then interviewed four of those judges and qualitatively examined the intersections of emotional deviance, status, and power for municipal court judges. This research noted that judges must make “efficient and quick decisions” in the courtroom and must maintain the perception that they act “neutral and fair” (p. 304) and that judges use communication to regulate the amount of power they emit in the courtroom (Scarduzio, 2011).

These findings suggest that judges act intentionally to retain power, or at least the appearance of power, over parties in the courtroom. Power may be a determinant of communication behavior due to the parties and witnesses need to mitigate the reactance of judges and juries. The first mitigate reactance technique is used to gain compliance by pointing out that the decision is within the control of the target.

H1: More “It's Up To You” compliance-gaining messages will be found in litigation transcripts than negotiation transcripts.

“It's Up To You” messages occur when a source tries “to get others to comply by telling them the decision is theirs to make and it's up to them. That is, try to gain their compliance by telling them the choice to comply is up to them” (Kellerman, 1994, p. 10). This strategy is found when, in regards to a request, the source reminds the target

that the target has the authority to choose whether to comply or not. Litigation involves deferential trust in a third-party decision-maker—either a judge or jury. Given that power dynamic, it is likely that messages that point out the power vested in the decision-maker will appear in litigation transcripts than in negotiation transcripts.

The power of a judge or jury is not absolute. Specifically, these decision-makers are bound by substantive laws, rules of procedure, and precedent. So, compliance may also be sought by pointing out the limits on the decision-maker's power by these constraints.

H2: More “This Is The Way Things Are” compliance-gaining messages will be found in litigation transcripts than negotiation transcripts.

A source employing the “This Is The Way Things Are” message does just that. This message occurs when a source tries to “get others to comply by telling them they have to because that is just the way things are. That is, try to gain their compliance by referring to rules, procedures, policies, or customs that require them to comply” (Kellerman, 1994, p. 12). This message is identified by the presence of an instance during which the source tells target that he or she must comply due to powers beyond the control of the source or the target or points out the restraints on the target's absolute decision-making power.

Litigation advocacy is centrally based in adherence to rules of procedure, statutes of substantive law, and canons of precedence. Reference to these parameters is likely in a courtroom setting. This compliance-gaining message is likely to appear at a higher rate than in negotiation in light of the many rules that bind judges and juries in the interest of procedural justice.

Outcome focus techniques. Decision-makers in litigation seek to do the “right” thing because they intrinsically want to act consistently with their morals and beliefs at the end of the trial (Bradshaw, 2011). Therefore, attorneys should empower jurors to find in their client’s favor and argue the law that speaks uniquely to their theory by incorporating it in their arguments (Crawford & Morris, 2011). Statements should set a standard (community, moral, or legal) that matches the case and encourages decision-makers that your arguments meet that standard.

Crawford and Morris (2011) advise lawyers to remind jurors that they have a “big job to do” because the verdict stands beyond the outcomes specific to their clients (p. 186). Judges and juries are charged with making decisions based on their personal and community standards of equity and morality. Judges and juries are expected to make equitable decisions. Therefore, it is likely that advocates would use messages involving equity in an attempt to gain the compliance of the decision-maker.

H3: More “Equity” compliance-gaining messages will be found in litigation transcripts than negotiation transcripts.

Communication containing “Equity” messages involve a source trying “to get others to comply on the grounds that it is equitable to do so. That is, try to gain their compliance by pointing out that being fair, just, and impartial means they should do what you want” (Kellerman, 1994, p. 9). “Equity” messages are present with a source tries to solicit compliance by invoking target’s sense of fairness or justice.

Within the boundaries provided by procedural rules, substantive statutes, and precedence, judges and juries try to make decisions based on fairness and equity. Trials

present an opportunity to examine the justness of a potential outcome. Advocates before a judge or jury would likely attempt to convince the decision-maker that the outcome they seek is equitable. Legal decision-makers are also charged with protecting and advancing the interests of the individuals and groups not party to the litigation. Judges and juries may consider the interests of the general public or other interests not at contention.

H4: More “Benefit (Other)” compliance-gaining messages will be found in litigation transcripts than negotiation transcripts.

“Benefit (Other)” messages involve a source attempting to gain compliance from a target “by telling them people other than themselves would benefit if they do what you want. That is, try to gain their compliance by pointing out how it helps people other than themselves if they comply” (Kellerman, 1994, p. 7). “Benefit (other)” messages are present when a source tries to gain target’s compliance because it would benefit someone other than the source or target.

Trial advocacy considers broad policy implications for proposed decisions of the court. In the absence of direct rules or precedence, judges and juries may consider the net effect of their decisions on the community or other individuals or groups affected by the case at bar in conjunction with arguments regarding fairness and justice.

Negotiation strategies. Frequently, parties must choose whether to submit cases to litigation or negotiate their differences. When choosing alternative forms of dispute settlement, participants need something from their counterparts that would not be available without negotiation. The essential features of a bargaining or negotiation

situation exist if: (1) all parties perceive the possibility of reaching an agreement where all parties would be better off, or no worse off, than without reaching an agreement; (2) all parties perceive that more than one such agreement could exist; and (3) each party perceives the other to have conflicting preferences or opposed interests with regard to the different agreements which might be reached (Deutsch & Krauss, 1962). Thus, this study examines three persuasive strategies in mediation—reciprocity, liking, and social validation—and three additional corresponding hypotheses.

Reciprocity. Societal norms compel people to repay gifts they received. Reciprocity is an essential rule of human conduct that applies to gifts, favors, and concessions that people offer to one another. Reciprocity is attributed with the door-in-the-face sales strategy in which a large request, once rejected, is followed with a reasonable request. The concession of the large request for the reasonable one compels the other party to concede from outright rejection to acceptance (Cialdini, 1993).

Since negotiation is a collaborative process, based on interdependence, reciprocity is likely to exist among the parties. Reciprocity may manifest in compliance-gaining messages featuring bargaining. In the natural give and take of negotiation, bargaining is likely to exist.

H5: More “Bargaining” compliance-gaining messages will be found in negotiation transcripts than litigation transcripts.

“Bargaining” messages feature a source attempting to gain compliance “by striking a bargain with them. That is, try to gain their compliance by negotiating a deal where you each do something for the other so everyone gets what they want” (Kellerman, 1994, p.

7). Compliance-gaining messages featuring bargaining feature a source offering something specific for the benefit of the target in order to gain something specific from the target.

Bargaining is the fundamental tenant of negotiation. Negotiation utilizes collaborative decision-making among parties that retain interests over a shared subject. In negotiation, all of the parties have the ability to make decisions and structure agreements; in litigation, the judge or jury retains all decision-making power. Therefore, bargaining is more likely to be found in negotiation than litigation.

Liking and similarity. Notions of liking and similarity play an important role in soliciting successful compliance. Communication research has established that people generally prefer to comply with requests made by individuals whom they like. As such, advocates employ various tactics to increase their likeability by the person from whom they seek compliance (Cialdini, 1993). Cooperation is thought to enhance positive feelings and liking (Cialdini, 2001). Therefore, it is likely that advocates will seek to cast themselves as teammates with other parties during negotiation in order to better their chances of gaining compliance.

H6: More “Cooperation” compliance-gaining messages will be found in negotiation transcripts than litigation transcripts.

“Cooperation” messages retain an advocate working to “get others to comply by being cooperative and collaborating with them. That is, try to gain their compliance not by telling the other person what to do but by offering to discuss things and work them out

together (Kellerman, 1994, p. 8).” Messages of cooperation are identified when a source offers to work with a target on solving a particular problem.

Cooperation generally involves an offer by the source to spend additional time with the target. Litigation is an adversarial process. Negotiation is described as a collaborative process where parties are able to work together to build solutions. Cooperation is a tactic present within an intrinsically cooperative process. Many neutrals paint cooperation as an independent goal of the negotiation process, aside from its importance in problem solving and compliance-gaining.

Social validation. The principle of social proof or social validation operates to compel actors to choose to comply based on their perception that others like them are doing the same. Actors tend to view an action or behavior as correct or appropriate when they see it performed by others (Cialdini, 1993). In the context of negotiation, a target is more likely to comply if they believe that another party in the negotiation will undertake similar action. Therefore, in negotiation, an advocate may attempt to gain the compliance of a target by pointing out that he or she act in the same way he or she has requested the target to act.

H7. More “Actor Takes Responsibility” compliance-gaining messages will be found in negotiation transcripts than litigation transcripts.

“Actor Takes Responsibility” messages feature a source attempting to gain compliance from another by indicating the source’s “willingness to help them or even work on the request yourself. That is, try to gain their compliance by offering to do it yourself as a means of getting them to do what you want (Kellerman, 1994, p. 7).” This message is

present when a source offers a commit to take a specific action to help the target overcome a barrier that exists to target's compliance or to take the same action that the source requests the target to make in furtherance of the target's compliance.

In negotiation, parties are working together to build a solution. In that effort, it would be natural for parties to volunteer their efforts or knowledge toward a resolution of the problem in an effort to encourage other parties to do the same. This offer is a form of social proof that acting in the way sought by the source is desirable.

Chapter 2: Method

Sample

This study employed content analysis to explore persuasion in litigation and negotiation. This was accomplished through the analysis of transcripts of real litigation and negotiation situations. Both data sets concerned state-level management of groundwater in Texas in order to control for any differences in communication strategy based on the subject of discussion.

The litigation sample was comprised of the publically available transcript of an oral argument to the Supreme Court of Texas, and the opening statements from a federal district court trial. In the litigation sample, the arguments were transcribed by a professional court reporter. The total litigation sample size was 52 pages and approximately 17,000 words.

The negotiation sample came from a facilitated negotiation of a meeting group of stakeholder representatives known as the Brazos River and Associated Bay and Estuary System Basin and Bay Stakeholder Committee. A recording taken by a representative was transcribed by a professional transcription service. The total negotiation sample size was 48 pages and approximately 19,000 words.e

Procedure

The data were examined for the occurrence of seven common compliance-gaining message strategies: “It's Up To You”, “This Is The Way Things Are”, “Equity”, “Benefit (Other)”, “Bargaining”, and “Cooperation.” These seven messages were chosen based on two factors. First, they were selected based on the likelihood of these messages

appear in the transcripts based on the compliance-gaining literature (Brehm and Brehm, 1981; Bradshaw, 2011; Cialdini, 1993; Cialdini, 2001). Second, only messages that could be identified in a single interaction without requisite context information were chosen; to wit messages in which a coder would need to know unobservable, nontextual, or secret motives or desires were excluded.

Approximately ten percent of the negotiation and litigation data were sampled using a random number generator for an exploratory test of the selected messages studied. Results from the exploratory sample indicated that the selected messages did appear in the data.

Coders were simultaneously trained in the compliance-gaining strategies. Coding took place over two days and was recorded by hand. Disputes were resolved by discussion. Coding was conducted by two naïve, female coders. Coders were selected based on their possession of a juris doctorate degree in order to control for any confounding caused by misunderstanding of the complexities of subject matter of the data. Coders were provided with a codebook of definitions and examples of the compliance-gaining strategies examined in this study (see Appendix D) based on the explanation of the strategies by Kellerman (1994).

Coders were instructed to examine the transcripts and identify words or phrases in individual episodes of dialogue as certain types of messages or goals and code the messages and goals on the transcript. After the two coders independently coded a small set of pages, the two coders discussed any disagreements; the disagreements and the final agreed upon designations were recoded by the researcher. This process was repeated

until both the litigation and negotiation data were examined in its entirety. Inter-coder reliability was relatively low, Cohen's $K = 0.61$.

Chapter 3: Results

The coders identified a total of 182 instances of compliance-gaining behavior in the two transcripts; 73 instances were found in the litigation scenario and 109 instances were found in the negotiation scenario. A chi-square test of independence was performed to examine the relationship of seven types of compliance-gaining messages to litigation and negotiation scenarios.

An omnibus test indicated that frequency of the coded compliance gaining techniques differed across the scenarios overall, $\chi^2(6) = 55.98, p < .001$. Inspection of the technique frequencies indicated that the overall difference was largely driven by the frequencies of “Cooperation” and “This Is The Way Things Are” techniques in the different scenarios.

“It’s Up To You” & “This Is The Way Things Are” Messages

H1 predicted that more “It’s Up To You” compliance-gaining messages would be found in litigation transcripts than negotiation transcripts. The finding did not support H1; there was not a significant difference in technique frequency between the scenarios, $\chi^2(1) = 1.14, p = .285$. In the litigation data, the coders found nine “It’s Up To You” messages. The messages included a judge asking “So if their experts make some assumptions this becomes a question of fact for the judge?” In the negotiation data, five “It’s Up To You” messages were identified.

H2 predicted that more “This Is The Way Things Are This Is The Way Things Are” compliance-gaining messages would be found in litigation transcripts than negotiation transcripts. The data supported H1, $\chi^2(1) = 10.08, p = .001$. In total, coders

identified 35 instances of “This Is The Way Things Are” in the litigation scenario. In many of these cases, the speaker identified facts, precedence, or other parameters limiting the discretion of the other actors, and narrowing the parameters of debate. For example, one litigant noted “[t]he evidence is controverted on that. It’s disputed evidence in this record. We believe it did. There is a ranch up in here who had some of that same sort of damage. They said no we don’t see a lot of that damage in here. But that’s what they claimed. That’s one piece of evidence under the standard of review it didn’t carry the day.”

Examples of “This Is The Way Things Are” messages were not absent from the negotiation transcripts; the coders identified 13 uses. In most cases, the messages represent fairly brief and isolated statements of the geographical facts, limits of existing laws, and charge of the parties to the negotiation. For example, one speaker limited the scope of the negotiation by pointing out that in the Texas water management scheme “Okay, so for domestic and livestock users, they can have on their property and their pallet of a 200-acre field or less. As long as that endowment is used for domestic and livestock purposes, so, you know, you can’t go out there and, like, create a resort and call it domestic and livestock.”

The data did not support the hypotheses that were based on the ascription of the parties to outcome focused communication patterns. Relatively few instances of these messages were found in either sample set.

“Equity” & “Benefit” Messages

H3 predicted that more “Equity” compliance-gaining messages would be found in litigation transcripts than negotiation transcripts. The finding did not support H3, in that there was not a significant difference in technique frequency between the scenarios, $\chi^2(1) = 2.00$, $p = .157$. Six “Equity” messages were identified in the litigation scenario. They were instantiated to offer general support for the arguments advanced by parties. For example, one litigant argued “[t]his case is about Texas policies that give no priority, that allocate no water to the San Antonio and Aransas Bay systems, upon which the whooping cranes depend.” Only two “Equity” messages exist in the negotiation data.

H4 predicted that more “Benefit (Other)” compliance-gaining messages would be found in litigation transcripts than negotiation transcripts. The finding did not support H4, in that there was not a significant difference in technique frequency between the scenarios, $\chi^2(1) = 0$. The litigation and negotiation scenarios each yielded only one example of messages designed to persuade based on the benefit to another entity.

“Bargaining” and “Cooperation” Messages

H5 predicted that more “Bargaining” compliance-gaining messages would be found in negotiation transcripts than litigation transcripts. The finding did not support H5, in that there was not a significant difference in technique frequency between the scenarios, $\chi^2(1) = 0$. Results from the study do not indicate that the principles of reciprocity motivated speakers in the transcripts to use “Bargaining” messages. The negotiation and litigation scenario each yielded only two instances of “Bargaining” messages.

Consistent with H6, more “Cooperation” compliance-gaining messages were found in negotiation transcripts than litigation transcripts, $\chi^2(1) = 47.18, p < .001$. Of the seven factors studied, the largest support was found for the use of “Cooperation” messages in the negotiation scenario. Coders identified 83 “Cooperation” messages in the negotiation sample. This technique was used liberally at intervals to move the discussion forward, close out topic areas, and open new ones. For example, one speaker, before finishing a topic asked, “[a]nd Matt, if you want to weigh in, you were on that conference call. Is that something you think we’re ready to make some preliminary recommendations on or do you think we need more information to fully describe the impact of those flow rates on the lower basin?”

“Cooperation” messages were not absent from the litigation sample. Fifteen messages exist in the litigation data. In many instances, judges and parties would use cooperation to manage the procedural or statutory authority inquiry. For example, a judge inquired from a litigant, “– the people of Texas have constitutional rights to water. How do you get around that when you ask for your prospective relief?”

“Actor Takes Responsibility” Messages

H7 predicted that more “Actor Takes Responsibility” compliance-gaining messages would be found in negotiation transcripts than litigation transcripts. The finding did not support H7, in that there was not a significant difference in technique frequency between the scenarios, $\chi^2(1) = 0.5, p = .479$

The litigation scenario yielded five “Actor Takes Responsibility” messages. Parties demonstrating the course of their case, or their responsibility to the Court or the

proceedings would offer messages such as, “[a]nd why? Because we’re going to go through each of those casual links and we’re going to go through with their witnesses and ours, and there’s not going to be a lot of disagreement even some with theirs about why”

By comparison, the negotiation scenario only contained three “Actor Takes Responsibility” messages. These messages appeared in similar procedural circumstances as in the litigation scenario. For example, one participant noted “[y]ou know, I didn’t necessarily want to go back and revisit all the Class I’s. I was suggesting something for the Class II’s, start going one by one. I’ll think of something else.”

Chapter 4: Discussion

This study sought to examine compliance-gaining strategies in two popular forms of dispute settlement—litigation and negotiation. Litigation is an adversarial process governed by legal procedure and administered by a judge. Negotiation is a codependent decision-making process in which the power lies with the parties. Understanding the role of compliance-gaining in these contexts is essential to successful representation of disputant parties. Disputants decide whether to submit cases to litigation or negotiate their differences. While there is extant research analyzing the differences between litigation and negotiation, to date no research has compared persuasive communicative patterns in the two processes.

Usage Frequency

The reported findings suggest that there may be differences in the usage frequency of compliance-gaining strategies in litigation and negotiation proceedings. In particular, usage frequency of “Cooperation” and “This is the Way Things Are” differed significantly in the two different contexts. Specifically, “This is the Way Things Are” messages were more likely to appear in litigation, while “Cooperation” messages were more likely to appear in negotiation.

“This Is The Way Things Are” messages occur when a source tries to gain the target’s compliance by telling the target that he or she is bound to comply because that is just the way things are, or by referring to rules, procedures, policies, or customs that require compliance (Kellerman, 1994). It was predicted that reference to the many rules and standards that bind judges and juries in the interest of procedural justice would yield

an increased comparative usage of this message in litigation compared to negotiation.

The data supported this position.

“Cooperation” messages involve an advocate collaborating with the target in order to gain his or her compliance by offering to discuss things and work them out together (Kellerman, 1994). Cooperation is thought to enhance positive feelings and liking and was predicted to be intrinsic within a collaborative dispute settlement process. The data supported this prediction.

Compliance-gaining messages containing a source’s effort to limit the effects of a target’s reaction to compliance are considered mitigate reactance techniques. High reactance by a target would limit the success of a compliance-gaining attempt from a source (Brehm & Brehm, 1981). Therefore, advocates seek to limit the severity of reactance when seeking compliance.

Power Dynamics

Litigation features a single neutral party who makes decisions that permanently bind the other parties in controversy to the outcome of the trial; negotiation does not feature a centralized decision-maker and the parties are only bound to the extent they agree. Therefore, in litigation, a greater amount of power is vested in the neutral decision maker than in the parties, while the opposite is true in negotiation. This power dynamic was predicted to cause an increased use of mitigate reactance techniques. Two mitigate reactance techniques were tested here: “It’s Up To You” and “This Is The Way Things Are”.

“It's Up To You” messages occur when a source tries gain a target’s compliance by telling them the decision is the target’s to make and giving him or her the choice to comply (Kellerman, 1994). It was hypothesized that this message would be more prominently used in litigation due to the desire to highlight the power vested in the decision-maker. The prediction was based on an assumption the power differential between the judge or jury and parties would cause advocates to mitigate the reactance of the decision-maker by pointing out his or her authority. This hypothesis was not supported.

Although “It's Up To You” messages existed in both the litigation and negotiation context, the usage frequency between the two conditions did not differ significantly. Certainly, advocates used “It's Up To You” during the trial. However, it was also used in the facilitated negotiation. The lack of significant difference in the use of “It's Up To You” messages might suggest that the orientation of power in the two different contexts may mean that mitigating the reactance of the opposite party negotiators is as valuable to negotiating parties as mitigating the reactance of a judge or jury is to litigating parties. In litigation, the power lies with the neutral decision maker, but in negotiation, all parties have power. Therefore, it could be that both contexts compelled deferential compliance-gaining strategies, such as “It’s Up To You”.

“This Is The Way Things Are” messages were used in both contexts, but at a significantly higher rate in litigation. As predicted, the need to reference the facts, procedures, standards, and precedence caused a high incidence of “This Is The Way Things Are” messages in the litigation transcripts.

Outcome Focused Messages

Outcome focused compliance-gaining messages feature content designed to encourage the target to consider the effects of his or her decision beyond that decision's relevance to the target and source. In the absence of direct rules or precedence, judges and juries may consider the net effect of their decisions on the community or other individuals or groups affected by the case at bar in conjunction with arguments regarding fairness and justice (Bradshaw, 2011). Trials present an opportunity to evaluate the viability of a claim in the context of the predicted effect of various rulings on the community. Outcome focused decisions were predicted to occur more frequently in litigation than in negotiation. Two such messages were tested: "Equity" and "Benefit (Other)".

"Equity" messages involve a source trying to gain the target's compliance on the grounds that it is equitable to do so or by pointing out that being fair, just, and impartial means they should do what you want (Kellerman, 1994). Judges and juries are charged with making decisions based on their personal and community standards of equity and morality. It was predicted that the expectation of decision-makers to act in the interest of equity would account for higher usage of "Equity" messages in litigation than in negotiation. This hypothesis was not supported.

Usage of "Equity" messages was scant in both contexts. The rare usage of "Equity" messages could exist due to a variety of factors. One possible explanation for the results is that since these transcripts examine fairly complex environmental claims

that operate in an established framework of environmental law, advocates were less likely to rely on messages containing appeals to equity.

“Benefit (Other)” messages involve a source attempting to gain compliance from a target by telling the target people other than the source or target would benefit if the target complies (Kellerman, 1994). Legal decision-makers are charged with protecting and advancing the interests of the individuals and groups not party to the litigation. It was predicted that this responsibility would cause advocates to use more “Benefit (Other)” messages in litigation than in negotiation. The data did not support this prediction.

Like “Equity” messages, “Benefit (Other)” messages were rare in both contexts. In fact, there was exactly one “Benefit (Other)” message in each condition. This suggests that, contrary to the prediction made herein, neither litigation nor negotiation are particularly concerned with outcomes that affect non-parties.

Reciprocity

Reciprocity is an essential rule of human conduct that compels people to repay gifts, favors, and concessions offered to one another. Since negotiation is a collaborative process based on interdependence, reciprocity is thought to exist among the parties. To examine the prevalence of reciprocity in negotiation, this study tested “Bargaining”.

“Bargaining” messages feature a source attempting to gain compliance by striking a bargain with the target where the source and target each do something for the other so everyone gets what they want (Kellerman, 1994). Since negotiation utilizes collaborative decision-making among parties that retain interests over a shared subject, “Bargaining”

messages were expected to appear at a higher rate in negotiation than in litigation. The data did not support this prediction.

“Bargaining” usage was rare throughout the data tested. The surprising lack of bargaining in the negotiation context could exist due to the nature of a multi-party facilitated negotiation. Rather than two people hashing out a deal, the many actors in this brand of negotiation devotes less communication to dealing points and more to mapping out solutions that address a broad range of issues.

Liking & Similarity

Liking and similarity play an important role in soliciting successful compliance because people generally prefer to comply with requests made by individuals whom they like. Therefore, communication strategies thought to increase liking and similarity were thought to be more popular in negotiation. To evaluate this pattern, “Cooperation” messages were tested.

While “Cooperation” messages were not absent in the litigation context, they were used at a significantly higher rate in the negotiation data. Effectively capitalizing on peripheral-route processing methods is a valuable strategy for negotiators. This suggests that the increased number of decision-makers and fluid decision-making parameters increases the perceived need of negotiators to curry the liking of their counterparts.

Social Validation

Social validation operates to compel actors to choose to comply based on their perception that others like them are doing the same. In negotiation, it is thought that a

target is more likely to comply if they believe that another party in the negotiation will undertake similar action (Cialdini, 1993). This study predicted that since all parties in negotiation are peers, messages from a source seeking compliance indicating his or her willingness to take responsibility for addressing the source's concern would serve as a form of social validation. In this study, social validation theory was examined by testing "Actor Takes Responsibility" messages.

"Actor Takes Responsibility" messages feature a source attempting to gain compliance from another by indicating the source's willingness to help the target or to work on the request as a means of getting gaining the target's compliance (Kellerman, 1994). It was predicted that, as a means of social proof, individuals would utilize "Actor Takes Responsibility" messages in negotiation wherein the source's willingness to work on his or her own request is meant to provide social proof to his or her peer, the target. The data did not support this prediction.

The use of "Actor Takes Responsibility" messages between the two contexts was not significantly different. In fact, slightly more instances of "Actor Takes Responsibility" messages appeared in litigation than in negotiation. In some cases, as a means of argument in litigation, representatives would offer to work toward the relief they requested from the court to the extent allowed by law to point out why they needed the judge to make a particular ruling.

Limitations & Future Directions

There are some limitations to the universal applicability of this study. This study used real-world data to examine a wide universe of compliance-gaining behavior.

Threats to the internal validity of this data include: selection bias, confounding, and maturation; the representativeness of the sample threatens the external validity.

Of the 64 strategies identified by Kellerman & Cole (1993), only seven were selected for inclusion in this study. The coders were given extensive information to aid in the identification of the seven types of messages at hand, but were not trained in all sixty-four strategies. Therefore, some risk exists that coders misidentified strategies not studied as one of the types of messages that are discussed herein.

The validity of this study is threatened by confounding. Confounding occurs when changes in the outcome variable are potentially attributable to variables other than the predictor variable. Real world litigation and negotiation do not occur in a vacuum. The claims arise after extensive time and consideration that is not possible to examine in this context. The events leading to the claim and the eventual choice of dispute resolution measure are not necessarily discoverable through the examination of transcripts. The needs of the parties are informed by events about which information is absent. Therefore, risk exists that the communication that is studied has complex motivations that are related to the absentee information. As such, there is a rush that communication is motivated by factors unexamined in this study.

Maturation also presents a risk to the validity of this study. Coding occurred on two different dates and took several hours. A number of procedures were enacted to prevent maturation. Regular rest intervals existed to combat coder fatigue, and coders were identically trained at the beginning of each session.

The most significant threat to the validity of this study is the representativeness of the sample. An unknowable range of issues could be the subject of litigation or negotiation. Truly, any matter in any dispute could submit to these forms of resolution. These samples studied herein all dealt with environmental claims for the sake of consistency.

This study provides ample catalyst for future research. Future studies should focus on expanding the sample of litigation and negotiation scenarios, broadening the universe of compliance-gaining messages examined, and opening the analysis to alternate forms of research.

This study focused on a narrow subsection of legal disputes. Specially, all of the disputes sampled dealt with matters of environmental law and state-level regulation. Future work should expand this sample to include a wider variety of disputes from a variety of areas of law. Additional areas of law from which to sample include: family, personal injury, patent, corporate, and employment litigation.

Seven of 64 types of compliance-gaining messages were examined in this study. Future research should include other messages. Specific messages that future research could study include: positive and negative altercasting (source seeks compliance by pointing out that a good or bad person would do or not do what the source desires), compliment (source seeks target's compliance by praising the target), personal expertise (source refers to his or her own credibility, experience, know-how, trustworthiness, and judgment), and warning (source seeks compliance from target by alerting them to

possible negative consequences of their behavior). These messages are observable and constitute good candidates for conclusion in future studies.

Future studies could analyze compliance-gaining in litigation and negotiation contexts through alternate forms of testing. Specifically, experimental research in which real-life advocates are asked to resolve an identical dispute in the two different forums could provide interesting results. Any future research into the differences in persuasive communication in litigation and negotiation should ground its methods in real-life interactions with professional advocates.

Appendix A

Marwell & Schmitt Strategies

Sixteen Compliance-Gaining Techniques with Examples from Family Situation		
Promise	If you comply, I will reward you	"You offer to increase Dick's allowance if he increases his studying."
Threat	If you do not comply I will punish you	"You threaten to forbid Dick the use of the car if he does not increase his studying."
Expertise (Positive)	If you comply you will be rewarded because of "the nature of things"	"You point out to Dick that if he gets good grades he will be able to get into a good college and get a good job."
Expertise (Negative)	If you do not comply you will be punished because of "the nature of things"	"You point out to Dick that if he does not get good grades he will not be able to get into a good college or get a good job."
Liking	Actor is friendly and helpful to get target in "good frame of mind" so that he will comply with request	"You try to be as friendly and pleasant as possible to get Dick in the 'right frame of mind' before asking him to study."
Pre-Giving	Actor rewards target before requesting compliance	"You raise Dick's allowance and tell him you now expect him to study."
Aversive	Actor continuously punishes target making cessation contingent on compliance	"You forbid Dick the use of the car and tell him he will not be allowed to drive until he studies more."
Debt	You owe me compliance because of past favors	"You point out that you have sacrificed and saved to pay for Dick's education and that he owes it to you to get good enough grades to get into a good college."
Moral Appeal	You are immoral if you do not comply	"You tell Dick that it is morally wrong for anyone not to get as good grades as he can and that he should study more."
Self-Feeling (Positive)	You will feel better about yourself if you comply	"You tell Dick he will feel proud if he gets himself to study more."

Self-Feeling (Negative)	You will feel worse about yourself if you do not comply	"You tell Dick he will feel ashamed of himself if he gets bad grades."
Altercasting (Positive)	A person with "good" qualities would comply	"You tell Dick that since he is a mature and intelligent boy he naturally will want to study more and get good grades."
Altercasting (Negative)	Only a person with "bad" qualities would not comply	"You tell Dick that only someone very childish does not study as he should."
Altruism	I need your compliance very badly, so do it for me	"You tell Dick that you really want very badly for him to get into a good college and that you wish he would study more as a personal favor to you."
Esteem (Positive)	People you value will think better of you if you comply	"You tell Dick that the whole family will be very proud of him if he gets good grades."
Esteem (Negative)	People you value will think worse of you if you do not comply	"You tell Dick that the whole family will be very disappointed (in him) if he gets poor grades."

Appendix B

Wiseman & Schenck-Hamlin Strategies

SANCTION STRATEGIES	
<i>Ingratiation</i>	Actor's proffered goods, sentiments, or services precede the request for compliance. They range from subtle verbal or nonverbal positive reinforcement to more blatant formulas of "apple polishing" or "brown-nosing." Manipulations in behavior include gift giving, supportive listening, love and affection, or favor-doing.
<i>Promise</i>	Actor's proffered goods, sentiments, or services are promised the target in exchange for compliance. This may include a bribe or trade. A variant is compromise, in which gains and losses are perceived in relative terms, so that both actor and target give in order to receive. Sometimes compromise is called trading-off, log-rolling, or finding a "middle-of-the-road" solution.
<i>Debt</i>	Actor recalls obligations owed him or her as a way of inducing the target to comply. Past debts may be as tangible as favors or loans, or as general as the catch-all "After all I've done for you. ..."
<i>Esteem</i>	Target's compliance will result in automatic increase of self-worth. Actor's appeal promises this increase in areas of target's power, success, status, moral/ethical standing, attention and affection of others, competence, ability to handle failure and uncertainty well, and/or attempts to aspire. "Everyone loves a winner" is the fundamental basis for appeal. "Just think how good you will feel if you would do this."
<i>Allurement</i>	Target's reward arises from persons other than the actor or target. The target's compliance could result in a circumstance in which other people become satisfied, pleased, or happy. These positive attitudes will be beneficial to the target. "You'll always have their respect" is an example.
<i>Aversive Stimulation</i>	Actor continuously punishes target, making cessation contingent on compliance. Pouting, sulking, crying, acting angry, whining, "the silent treatment," and ridicule would all be examples of aversive stimulation.
<i>Threat</i>	Actor's proposed actions will have negative consequences for the target if he or she does not comply. Blackmailing or the suggestion of firing, violence, or breaking off a friendship would all be examples of threats.
<i>Guilt</i>	Target's failure to comply will result in automatic decrease of self-worth. Areas

	of inadequacy might include professional ineptness, social irresponsibility, or ethical/moral transgressions.
<i>Warning</i>	Target's punishment arises from persons other than the actor or target. The target's non-compliance could lead to a circumstance in which other people become embarrassed, offended, or hurt. Resulting negative attitudes from those people will have harmful consequences for the target. "You'll make the boss unhappy" and "What will the neighbors say" are examples.
NORMATIVE STRATEGIES	
<i>Altruism</i>	Actor requests the target to engage in behavior designed to benefit the actor rather than the target. Presentation of some personal need and asking for help is typical. Intensity of the appeal may be manipulated by making the target feel unselfish, generous, self-sacrificing, heroic, or helpful. "It would help me if you would do this" and "Do a favor for me" exemplify the direct approach of the altruistic strategy. Two variants are sympathy ("I am in big trouble, so help me") and empathy ("You would ask for help if you were me").
EXPLANATION STRATEGIES	
<i>Direct Request</i>	The actor simply asks the target to comply. The motivation or inducement for complying is not provided by the actor, but must be inferred by the target. The actor's message appears to offer as little influence as possible, so that the target is given the maximum latitude of choice. "If I were you, I would . . ." and "Why don't you think about . . ." are instances of direct request.
<i>Explanation</i>	One of several reasons are advanced for believing or doing something. A reason may include the following: (1) credibility, "I know from experience." The reason for complying is my trustworthiness, integrity, exemplary action, or expertise; (2) inference from empirical evidence, "Everything points to the logic of this step." The reason for complying is based on the following evidence.
<i>Hinting</i>	Actor represents the situational context in such a way that the target is led to conclude the desired action or response. The actor might say, "It sure is hot in here," rather than directly asking the target to turn down the heat.

Appendix C

Kellerman & Cole Strategies

64 COMPLIANCE-GAINING STRATEGIES: WAYS TO GET OTHER PEOPLE TO DO WHAT YOU WANT THEM TO DO		
Strategy	Definition	Example
Actor Takes Responsibility	Try to get others to comply by stating your willingness to help them or even work on the request yourself. That is, try to gain their compliance by offering to do it yourself as a means of getting them to do what you want.	I get Howard to do what I want by telling him that I would be willing to do it for him. I said: 'Is there anything I can do to help you overcome the problems that are preventing you from coming to work on time?' I got Randy to look for a job by saying I'd look through the want ads for him.
Altercasting (Negative)	Try to get others to comply by pointing out that only a bad person would not do what is wanted. That is, try to gain their compliance by noting that only a person with negative qualities wouldn't comply.	You tell the Smiths that only an inconsiderate person would carry through with this plan to cut down the tree and construct a garage in its place. You tell your friend that only an immature person would expect someone to take an unrewarding job. The mark of a bad person is someone who steals, so quit doing it.
Altercasting (Positive)	Try to get others to comply by pointing out that a good person would do what is wanted. That is, try to gain their compliance by noting that any person with positive qualities would comply.	You tell Dick that since he is a mature and intelligent boy he will naturally want to study more and get good grades. She said: 'A good friend would do this. You tell the Smiths that a considerate person would want to preserve the beauty of the property.'

Altruism	Try to get others to comply by asking them to give you a hand out of the goodness of their heart. That is, try to gain their compliance by asking them to be altruistic and just do it for you.	She said: 'Can't you just go along for my sake? I said: 'I am in big trouble, so please help me. Please have pity on me. I need help.
Assertion	Try to get others to comply by asserting (forcefully stating) what you want. That is, try to gain their compliance by demanding (commanding) them to comply.	She said: 'Play with me now! I just gave him a command and he did it. I said: 'Don't ask me any questions. Just do it and do it now!
Audience-Use	Try to get others to comply by having a group of other people present when you make your request. That is, try to gain their compliance by asking them in front of other people as a way to back up your request.	She put me on the spot by asking me in front of the whole family. I had everyone announce to the group what their contribution to the United Way would be. We usually get more donations that way. I waited until she was with her parents before asking her to pay her part of the phone bill.
Authority Appeal	Try to get others to comply on the basis of the authority that you or other people have. That is, try to gain their compliance by using or relying on a position of power over them to get them do to what you want.	He said: 'We're going to do it my way because I'm the one who's in charge, not you. My commander told me to do 100 situps so I did. As your supervisor, I would strongly urge you to get your report in on time.
Aversive Stimulation	Try to get others to comply by doing things they don't like until they agree to comply. That is, try to gain their compliance by bothering them until they do what you want.	I became a nuisance and kept bugging her until she did what I wanted. I keep making Sammie's life miserable until he does what I want. I pout, sulk, and whine until Max does what I want.

Bargaining	Try to get others to comply by striking a bargain with them. That is, try to gain their compliance by negotiating a deal where you each do something for the other so everyone gets what they want.	I offered an exchange. I said: 'If you do this for me, I will do something for you. I said: 'I'll give you a priority on vacation time if you'll do this. She wanted seafood; I wanted Mexican. So we went to this brand new Seafood Mexican restaurant.
Benefit (Other)	Try to get others to comply by telling them people other than themselves would benefit if they do what you want. That is, try to gain their compliance by pointing out how it helps people other than themselves if they comply.	He said: 'If you do this, it will help others. I told Wayne to do it for the benefit of others, not for my benefit. Go spend some time with your grandparents. They could use the company.
Benefit (Self)	Try to get others to comply by telling them you personally would benefit if they do what you want. That is, try to gain their compliance by pointing out how it helps oneself if they comply.	I got my parents to help finance medical school by telling them how it would benefit me. I said: 'It would help me if you do this. It would really help me out if you watched my place while I was out of town.
Benefit (Target)	Try to get others to comply by telling them they personally would benefit if they do what you want. That is, try to gain their compliance by pointing out how it helps them if they comply.	I got Tony to start running five days a week by pointing out that it was for his own good. You point out to your friend that if he accompanies you to the Midwest then he will have the opportunity to explore a part of the country with which he is unfamiliar. To get Ben to comply I said: You will benefit if you do.
Challenge	Try to get others to comply by challenging them to do what you want. That is, try to gain their compliance by provoking, stimulating, tempting, goading, and/or galvanizing them to	I said: 'Why don't you just go on and do it? Huh? Huh? To get Larry to paint the house, I bet him that he couldn't. I dared Mark to ask Susan out for a date.

	comply.	
Compliment	Try to get others to comply by complimenting them on their abilities or accomplishments. That is, try to gain their compliance by praising them to get them to do what you want.	I said: 'I would like your advice on making up with Tanya because I think you handle these situations well. I compliment him so he'll do it. I would like your help because you are so capable.
Compromise	Try to get others to comply by offering to compromise with them. That is, try to gain their compliance by making a concession to them so they'll make their concession to you and do what you want.	I got Sue to do the laundry by finally agreeing to do the dishes. To get my parents to pay for my college tuition, I finally agreed to work for my father during the summer (even though I didn't want to). We compromised.
Cooperation	Try to get others to comply by being cooperative and collaborating with them. That is, try to gain their compliance not by telling the other person what to do but by offering to discuss things and work them out together.	What Alice did really bothered me and I wanted her to stop doing it. So we discussed it and worked it out. We talk about it. We discuss our differences and needs. I'm having trouble with your coming home late. Why don't we get together and work something out?
Criticize	Try to get others to comply by criticizing them. That is, try to gain their compliance by attacking them on a personal level to get them to do what you want.	He said: 'You're so lazy, you never want to do anything. Why don't we go out for a change? Aaron started showing up on time because I criticized him for not doing it. John told me I was such a fat cow, that I really ought to eat less.
Debasement	Try to get others to comply by acting pitiful and pleading. That is, try to gain their compliance by debasing, demeaning, degrading, devaluing, humiliating, and/or lowering yourself so as to deprive yourself of esteem or	I said: 'Oh come on, please try it. Oh please, please. To get her to marry me, I got down on my knees and begged. I begged and I pleaded. I made myself pathetic. And I got him to comply.

	self-worth to get them to do what you want.	
Debt	Try to get others to comply by reminding them they are in debt to you because of things you have done for them in the past. That is, try to gain their compliance by indicating that they owe it to you to do what you want.	I said: 'Think about all the things I have ever done for you. He said: 'Remember how I helped you move last year, well now's your chance to pay me back. I would recall past favors I've done and say my roommate owes me a few hours of quiet.
Deceit	Try to get others to comply by misleading them. That is, try to gain their compliance by lying to or deceiving them.	To keep Todd from asking Bill to move in I would lie by implying the landlord has suggested raising the rent for additional roommates. We misled the new buyer into believing that the house was worth more than it really was. I got John to buy the computer by telling him I had close ties with the service department, although this wasn't the case.
Direct Request	Try to get others to comply by just making a direct request. That is, try to gain their compliance by simply asking or stating what you want without giving any reasons for them to comply.	Pete asked Bob: 'Could I borrow your notes? I would just ask the Smiths not to cut down the tree. I simply tell Bob what I want.
Disclaimer (Norms/Rules)	Try to get others to comply by downplaying or disavowing restrictions and constraints that might prevent them from doing what you want them to do. That is, try to gain their compliance by pointing out that otherwise applicable procedures, rules, norms, and/or expectations should be broken in this instance.	She said: 'I know I'm not supposed to mix business with pleasure, but you should return Mr. Mavis's phone call now. I said: 'I know this is against the rules, but let's go nude sunbathing anyway. You know, all those rules and regulations are pretty irrelevant. Let's just blow them off.

Disclaimer (Other)	Try to get others to comply by downplaying or disavowing the ability of anyone else to do so. That is, try to gain their compliance by pointing out that other people can't help you or do what is needed.	She said: 'There is no one else that can do it. She said: 'You are the only one who knows how to get there. Can't you drive? It just isn't possible for anyone else to do what I am asking you.
Disclaimer (Self)	Try to get others to comply by downplaying or disavowing your reasons for asking. That is, try to gain their compliance by indicating that: (a) you don't want to make a bad impression nor do you have bad intentions, (b) you don't really want to make the request and you are only doing so reluctantly, and/or (c) you simply have no choice but to make the request.	He said: 'Don't think I'm a bad person or anything, but could you do this?' I said: 'I don't want to ask you this, but could you do it anyway? I really don't want to impose, but could you give me a ride to the airport tomorrow morning?
Disclaimer (Target)	Try to get others to comply by acknowledging and sympathizing with why they may not want to do so. That is, try to gain their compliance by indicating that: (a) you understand and are aware of their reasons, feelings, and abilities, and/or (b) that you are sensitive to their needs and concerns even though you must ask them to do what you want.	I said: 'I can see why you feel the way you do but I still need you to do this.' I said: 'I know you were under pressure and had difficulty with the report, but I need to ask you to work on it again. I sympathized with Danielle about the added problems that my request has caused.
Disclaimer (Task)	Try to get others to comply by downplaying what you are asking them to do. That is, try to gain their compliance by indicating that what you want them to do isn't what they think it is and shouldn't pose a problem; it isn't awful,	I said: 'The project shouldn't take too much of your time.' I downplayed what I was asking Paul to do by saying it wouldn't get in his way or anything. Help me out with this. It's no big deal.

	effortful, difficult, or dumb.	
Disclaimer (Time)	Try to get others to comply by downplaying or disavowing being busy as a reason to refuse your request. That is, try to gain their compliance by pointing out that presently there is or shortly there will be enough time for them to do what you want.	She said: 'You can probably watch the show some other time, so play with me now.' I said: 'Now that your finals are over, I really want you to help out more around the house.' Come to the pub with us. You can finish your paper later.
Duty	Try to get others to comply by pointing out it is their duty to do so. That is, try to gain their compliance by stating they should fulfill obligations, responsibilities, and commitments that they have.	I said: 'As parents of these two kids, you are the ones who should get them under control.' She said: 'You need to be there tonight. You gave your word.' It is your duty to service your country.
Equity	Try to get others to comply on the grounds that it is equitable to do so. That is, try to gain their compliance by pointing out that being fair, just, and impartial means they should do what you want.	I said: 'Look at all those pizza coupons you have. Why don't you pass them around so we can all have some.' He said: 'Everyone has to do their fair share or the project won't get done.' For things to be even and fair, you need to fill out this application form just like everyone else has to.
Esteem (Negative) by Others	Try to get others to comply by pointing out that, if they do not do so, other people will think worse of them. That is, try to gain their compliance by noting that in the eyes of others they will be viewed more negatively if they don't do what you want.	You tell your friend that his other friends will think worse of him if he refuses to accompany you to the Midwest to live. You tell Dick that the whole family will be very disappointed in him if he gets poor grades. If you don't apologize, others will think worse of you.

Esteem (Positive) by Others	Try to get others to comply by pointing out that, if they do so, other people will think better of them. That is, try to gain their compliance by noting that in the eyes of others they will be viewed more positively if they do what you want.	She said: 'People you care about will think well of you if you pick yourself up and keep trying.' John told me all the girls would admire me more if I started working out. You tell Dick that the whole family will be very proud of him if he gets good grades.
Esteem (Negative) by Actor	Try to get others to comply by pointing out that, if they do not do so, you will think worse of them. That is, try to gain their compliance by noting that in your eyes they will be viewed more negatively if they don't do what you want.	I said: 'You will look selfish to me if you don't offer to pay for our guests.' He said: 'I will be so ashamed of you if you don't take care of your problem.' I will lose all respect for you if you lie to me.
Esteem (Positive) by Actor	Try to get others to comply by pointing out that, if they do so, you will think better of them. That is, try to gain their compliance by noting that in your eyes they will be viewed more positively if they do what you want.	I said: 'I will think more highly of you if you apologize.' I said: 'I will really admire you if you are able to get through law school.' If you join the Peace Corps, you will gain my respect and admiration.
Expertise (Negative)	Try to get others to comply by pointing out that because of the way the world works, unfavorable things will happen if they don't change their behavior. That is, try to gain their compliance by noting that in the natural course of things, bad outcomes will occur if they don't do what you want.	Kathy said: 'You're likely to get lung cancer if you don't quit smoking.' You point out to Dick that if he does not get good grades he will not be able to get into a good college or get a good job. Can't you eat somewhere other than McDonald's? If you don't eat right and take care of yourself, you know what will happen; you'll get sick.

Expertise (Positive)	Try to get others to comply by pointing out that because the way the world works, favorable things will happen if they change their behavior. That is, try to gain their compliance by noting that in the natural course of things, good outcomes will occur if they do what you want.	I wanted Troy to buy some stocks and bonds, so I told him that buying a bond would be an investment in the future. Bob told me: 'If I worked harder I would get ahead, because that's the way things work.' You point out to Dick that if he gets good grades he will be able to get into a good college and get a good job.
Hinting	Try to get others to comply by hinting around at what you want them to do. That is, try to gain their compliance by indicating indirectly what you want, hoping they will figure it out and comply even though you never come out and really say it.	Rather than directly asking Alicia to open the window, I off- handedly mentioned that it was hot in the room. To get Mark from letting his friend move in I would drop subtle hints about how little space we have. Instead of asking her directly if she wanted to have sex, I would turn the lights down, put some music on, offer a drink and see how things went.
I Want	Try to get others to comply for no reason other than you want them to. That is, try to gain their compliance by telling them to do what you want because you desire it.	He said: 'Let's go to the party. I really do want to.' She said: 'Get some beer. I want to stay here and watch the game.' Take me out to dinner. I want to go.
Invoke Norm	Try to get others to comply by indicating they would be out of step with the norm if they didn't do what you want. That is, try to gain their compliance by prodding them to conform to what others have, do, or desire.	I said: 'Come to the bar with us. Everybody's going.' He said: 'Sign up for the camping trip. Do you want to be the only one who isn't going?' All of your friends are doing it.
It's Up to You	Try to get others to comply by telling them the decision is theirs to make and it's up to them. That is, try to gain their compliance by telling them the	I said: 'I'd really like you to take me to the dance this weekend, but I don't want to force you.' She said: 'You'll have to decide whether to redo your part or not. The decision is up to you.'

	choice to comply is up to them.	If you want to go camping with us, you're invited but you don't have to go if you don't want to.
Logical Empirical	Try to get others to comply by making logical arguments. That is, try to gain their compliance through the use of reasoning, evidence, facts, and data.	I asked Warren to undertake a particular job by explaining why the job needs to get done. I would explain to my roommate that since our lease limits us to two people the friend cannot stay. The individual presents facts or evidence to try to get cooperation.
Moral Appeal	Try to get others to comply by appealing to their moral or ethical standards. That is, try to gain their compliance by letting them know what is right and what is wrong.	He said: 'Don't eat that company's tuna. Innocent dolphins are murdered by their fishing techniques.' I said: 'Treat your parents better. Remember, do unto others what you want them to do unto you.' Eva told me not to cheat on my tax return because it was wrong.
My Concern for You	Try to get others to comply because of your concern for them. That is, try to gain their compliance by referring to your regard for, consideration of, interest in, and feelings for them.	He said: 'I think about you a lot. That's why I am asking you to keep in touch more so I can help you.' I said: 'Why don't you get to know the people you work with? I really want things to go well for you at your new job.' Why don't you break up with Josie? I just want you to be happy.
Nature of Situation	Try to get others to comply by being attentive to the situation or circumstances you find yourselves in. That is, try to gain their compliance by taking note of the appropriateness of their behavior to the situation and/or the appropriateness of your request in the situation.	I told David and Colleen that they should make out somewhere else. Your girlfriend said: 'I don't care if you swear with your friends, but don't do it in front of your grandparents.' You know, this is the wrong time and place for that.

Negative Affect	Try to get others to comply by being really negative: expressing negative emotions, acting really unfriendly, and creating an unappealing impression. That is, try to gain their compliance by acting displeased to get them to do what you want.	I act mean to him to get him to do as I wish. I express my negative feelings in an attempt to get the other person to comply. I verbally expressed my anger to get Dana to change her ways.
Not Seek Compliance	No attempt is made to get others to do what you want. That is, no compliance is sought.	Instead of getting John's permission, I do what I want anyway. Since I wasn't sure how to ask her out on a date, I just didn't ask at all. When I want to Joan to help around the house, I don't bother asking, I just to it by myself.
Persistence	Try to get others to comply by being persistent. That is, try to gain their compliance by persevering (continuing) in your attempts to get them to do what you want.	I just continued to tell Larry what I thought he should do until he did it. I keep repeating my point of view until MaryAnne gives in. I got Jake to comply by repeatedly reminding him about what I wanted.
Personal Expertise	Try to get others to comply by referring to your credibility (your personal expertise). That is, try to gain their compliance based on your experience, know-how, trustworthiness, and judgment.	He said: 'After 25 years of experience in this business, this is the way you should do it.' To get Bill to buy the new car, I told him: 'I've attended a number of professional seminars in the product design of cars. I'd advise you to trust my judgment.' From doing computer repair as part of my job, I know that IBMs cost a lot and you get very little.
Positive Affect	Try to get others to comply by being really positive: expressing positive emotions, acting really friendly, and creating an appealing	I tried to act friendly and helpful to get Tim in a good mood so that he would do what I wanted. I would tell my date that I really like her a lot and make references to her

	impression. That is, try to gain their compliance by charming them into doing what you want.	attractiveness to get her to go to bed with me. I act charming to get Pat to do what I want.
Pre-Giving	Try to get others to comply by doing positive and nice things for them in advance of asking them to do what you want. That is, try to gain their compliance by giving them things they'd like and then only afterwards making your request.	I helped my father around the house and then I asked to borrow \$50. I give him a small gift or card before I ask him to do what I want. I sent my friends who lived on the beach a Christmas present and then called up awhile later and asked if I could visit them over the holidays.
Promise	Try to get others to comply by making a promise. That is, try to gain their compliance by offering to give them a reward or something they'd like if they do what is wanted.	I said: 'I will give you a reward if you do what I want.' I told my friends I would buy pizza and beer if they helped me move. I'll buy you a car if you get all A's this year.
Promote Task	Try to get others to comply by promoting the value and worth of what you want them to do. That is, try to gain their compliance by identifying one or more positive qualities of the thing you are asking them to do (e.g., what you want them to do is important, meaningful, rewarding, enjoyable etc.).	I told Mark: 'Going to the beach will make you happy.' He said: 'Play this game with me; it's lots of fun.' I got Sandy to go to college by saying: You'll find it rewarding and interesting.
Self-Feeling (Negative)	Try to get others to comply by stating that not doing so will result in an automatic decrease in their self-worth. That is, try to gain their compliance by pointing out that they will feel worse about themselves if they don't do what you want.	You tell Dick he will feel ashamed of himself if he gets bad grades. She said: 'How can you live with yourself if you say no?' You'll lose all respect for yourself if you continue to cheat on your wife.

Self-Feeling (Positive)	Try to get others to comply by stating that doing so will result in an automatic increase in their self-worth. That is, try to gain their compliance by pointing out that they will feel better about themselves if they do what you want.	She said: 'You will feel good about yourself if you do it.' I said: 'You will feel like you've done something worthwhile if you help out at the food drive.' I know you will have a sense of pride and accomplishment if you stick this out and graduate from college.
Suggest	Try to get others to comply by offering suggestions about what it is you want them to do. That is, try to gain their compliance by subtly proposing an idea that indirectly points out and describes what it is you want them to do.	She said: 'You know, one alternative is to take the Airbus to L.A.' She said: 'Why don't you think about joining a softball team?' If I were you, I'd probably call accounting before I got started on the project.
Surveillance	Try to get others to comply by indicating your awareness and observation of what they do. That is, try to gain their compliance by referring to your general vigilance, surveillance, scrutiny, and/or monitoring of their behavior.	She said: 'I'll be checking on you while I'm out of town, so make sure you are home every night by 11 p.m.' She said: 'Keep your eyes on your own test. We will be watching.' This is stupid. You know I'll find out if you take money out of the bank.
Third Party	Try to get others to comply by having someone else ask them for you. That is, try to gain their compliance by getting someone else to intervene and do it for you.	John really gets along well with Mark, so I had John ask Mark to quit parking in my parking spot for me. I ask my sister to ask for me. I would talk to other neighbors who have known the Smiths for a longer time and see if they could convince the Smiths not to cut down the tree.
This Is the Way Things Are	Try to get others to comply by telling them they have to because that is just the way things are. That is, try to gain their compliance by referring to rules, procedures, policies, or customs that require them to	She said: 'You don't have a choice. You have to pay your taxes.' I told the customer that if they wanted to return the merchandise they would have to bring a receipt because that's store policy. This is a required course. You must

	comply.	take it.
Thought Manipulation	Try to get others to comply by convincing them that the request you are making is really their own idea. That is, try to gain their compliance by having them think they were the ones who really wanted to do it in the first place.	I get Nancy to think it is her idea to go out to dinner. I get my friends to think that they want to leave the party rather than me so that we can go home. I got my spouse to buy me new clothes by making him think he was the one who wanted to do it and not me.
Threat	Try to get others to comply by threatening them. That is, try to gain their compliance by saying you will punish them if they don't do what you want.	I said: 'John if you don't do what I want, I will punish you.' Paul threatens to reveal some deep dark embarrassing secret about Tim to someone special if he does not comply. Unless you stop being late for work, your future with this company will be in serious jeopardy.
Value Appeal	Try to get others to comply because of important values that compel action in this instance. That is, try to gain their compliance by pointing to central and joint beliefs that should guide what they do.	I would get the person to comply by stressing our common goals, beliefs, and values. She said: 'John I know you won't cheat on me because you value honesty.' Since financial security is really important to us both, I think you should take this job even though it may not be what you want.
Warning	Try to get others to comply by warning them about what they are doing. That is, try to gain their compliance by alerting them to possible negative consequences of their behavior.	Jerry said: 'Be careful, she's out to get you.' I warned him against it so he didn't do it. You might be risking your job if you get pregnant.

Welfare (Others)	Try to get others to comply by telling them how other people would be hurt if they don't do what you want. That is, try to gain their compliance by pointing out that the welfare of other people is at stake.	Mary said: 'You'll ruin it for the rest of the family if you don't show up for the reunion.' He said: 'They are all depending on you to get this done.' I told John that the next time he drinks and drives he should think about the people he could hurt.
Why Not?	Try to get others to comply by making them justify why they should not. That is, try to gain their compliance by pointing out there are no real grounds for not doing so.	I said: 'There is really no reason for you not to do this.' When John asked me why he should do what I wanted, I said 'Why not?' and he did it. Why not do it? You really have nothing to use.
Your Concern for Me	Try to get others to comply because of their concern for you. That is, try to gain their compliance by referring to their regard for, consideration of, interest in, and feelings for you.	I told Ken that if he really respected me he'd be willing to wait. I said that if he really cared for me he'd stop cheating on me. I told Gary that, because of the way he feels about me, he should do what I want.

Appendix D

Codebook

This codebook is designed to help you in the process of coding transcripts. Each variable is defined here in relation to its use in this study. Please refer to these definitions, and only these definitions, while coding your ads. Please do not apply any other definitions with which you may be familiar during this coding process. Code these transcripts based on the following instructions.

Instructions:

This study examines compliance-gaining messages and goals during litigation and negotiation. As a coder, please read the transcripts and identify words or phrases as certain types messages or goals. You will code the messages and goals on the corresponding codesheet.

Section 1 of the codebook contains a list of compliance-gaining messages and definitions. These messages are the variables of this study; the definitions explain the application of the variables in this study. Please familiarize yourself with the variables and their definitions. Please carefully study the terms and definitions, and ask questions if you do not understand the definition.

After some definitions you will find specific instructions for coding that variable. If no specific instructions are offered follow the basic instructions found here. Each column has skip interval instructions printed on it. Begin with the highlighted ad and skip the appropriate number of ads between each coding.

Basic instructions:

1. Read each sentence of the transcript completely.
2. Read each sentence a second time. This time, please note the presence of the listed compliance-gaining message variables. Be careful, these variables may be found in words, phrases, or even abbreviations. As you identify variables mark them on the codesheet assigned to that section of the transcript.
3. Read each sentence a third time. This time, please note the presence of the listed compliance-gaining goal variables. As with messages, these variables may be found in

words, phrases, or even abbreviations. Additionally, these variables may require reading a group of sentences in context in order to ascertain. Please only mark the goal once, when it becomes immediately apparent.

The definitions of **compliance-gaining message** variables are listed below. Please consider the message that the speaker is attempting to convey, and choose the message accordingly.

Compliance gaining message definitions and examples adapted from Kellerman, 1994.

Mitigate reactance techniques.

1. It's Up to You (Code = 1)

Definition: “Try to get others to comply by telling them the decision is theirs to make and it's up to them. That is, try to gain their compliance by telling them the choice to comply is up to them.”

Identification: In regards to a request, the source reminds the target that the target has the authority to comply or not.

Examples:

- a. I said: 'I'd really like you to take me to the dance this weekend, but I don't want to force you.'
- b. She said: 'You'll have to decide whether to redo your part or not. The decision is up to you.'
- c. If you want to go camping with us, you're invited but you don't have to go if you don't want to.
- d. “We’ll do our best as we can, Your Honor... we are sobered by the fact that this is a daunting challenge to make, to come up with something that works.”

2. This Is the Way Things Are (Code = 2)

Definition: “Try to get others to comply by telling them they have to because that is just the way things are. That is, try to gain their compliance by referring to rules, procedures, policies, or customs that require them to comply.”

Identification: Source tells target that target must comply due to powers beyond the source or the target’s control.

Examples:

- a. She said: 'You don't have a choice. You have to pay your taxes.'
- b. I told the customer that if they wanted to return the merchandise they would have to bring a receipt because that's store policy.
- c. This is a required course. You must take it.

d. “we do believe that what the fact that the Court has already pointed out... we agree with that... whether or not the evidence that the Plaintiff brings forward in this case will establish a take under the ESA...”

Ends-based orientation

3. Equity (Code = 3)

Definition: “Try to get others to comply on the grounds that it is equitable to do so. That is, try to gain their compliance by pointing out that being fair, just, and impartial means they should do what you want.”

Identification: Source tries to solicit compliance by invoking target’s sense of fairness or justice.

Examples:

- a. I said: 'Look at all those pizza coupons you have. Why don't you pass them around so we can all have some.'
- b. He said: 'Everyone has to do their fair share or the project won't get done.'
- c. For things to be even and fair, you need to fill out this application form just like everyone else has to.

4. Benefit (Other) (Code = 4)

Definition: “Try to get others to comply by telling them people other than themselves would benefit if they do what you want. That is, try to gain their compliance by pointing out how it helps people other than themselves if they comply.”

Identification: Source tries to gain target’s compliance because it would benefit someone other than the source or target.

Examples:

- a. He said: 'If you do this, it will help others.'
- b. I told Wayne to do it for the benefit of others, not for my benefit.
- c. Go spend some time with your grandparents. They could use the company.
- d. “you want to recognize the beneficial environment and that’s also going along with that”

Reciprocity

5. Bargaining (Code = 5)

Definition: “Try to get others to comply by striking a bargain with them. That is, try to gain their compliance by negotiating a deal where you each do something for the other so everyone gets what they want.”

Identification: Source offers something for the benefit of the target in order to gain something from the target.

Examples:

- a. I offered an exchange. I said: 'If you do this for me, I will do something for you.
- b. I said: 'I'll give you a priority on vacation time if you'll do this.
- c. She wanted seafood; I wanted Mexican. So we went to this brand new Seafood Mexican restaurant.

Liking and Similarity

6. Cooperation (Code =6)

Definition: “Try to get others to comply by being cooperative and collaborating with them. That is, try to gain their compliance not by telling the other person what to do but by offering to discuss things and work them out together.”

Identification: Offers from source to target to work together on solving a particular problem. Generally involves an offer of additional time with the target.

Examples:

- a. What Alice did really bothered me and I wanted her to stop doing it. So we discussed it and worked it out.
- b. We talk about it. We discuss our differences and needs.
- c. I'm having trouble with your coming home late. Why don't we get together and work something out?
- d. “one of the things Suzanne and I can do is just to at least note items, work plan items”
- e. “Is everyone okay with that note?”

Commitment

7. Actor Takes Responsibility (Code =7)

Definition: “Try to get others to comply by stating your willingness to help them or even work on the request yourself. That is, try to gain their compliance by offering to do it yourself as a means of getting them to do what you want.”

Identification: Source offers to help target overcome whatever barriers exist to target's compliance.

Examples:

- a. I get Howard to do what I want by telling him that I would be willing to do it for him.
- b. I said: 'Is there anything I can do to help you overcome the problems that are preventing you from coming to work on time?
- c. I got Randy to look for a job by saying I'd look through the want ads for him.

d. “the State of Texas is deeply involved in the Senate Bill 3 process ... addressing every aspect of the problem that the State has the authority to address under the constitution”

In reading each section, please read carefully. It is possible for words or phrases to have vague meanings. Please use your best judgment in coding.

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